Section 2
Department of Ecology

Centennial Clean Water Fund and Related Funds

Ecology's Water Quality Program administers three separate financial assistance programs that are directed at protecting and improving water quality in the State of Washington. They are:

- The state Centennial Clean Water Fund
- The federal Clean Water Act, Section 319 Nonpoint Source Fund
- The Washington State Water Pollution Control Revolving (Loan only) Fund (SRF)

Because the majority of money in the latter two funds is federal, the Joint Legislative Audit Review Committee, (JLARC) and HB 1785 focused on the Centennial Fund. However, for a number of years, Ecology's Water Quality Program has recognized that because the common goal was clean water, it is more efficient for local agencies and Ecology to integrate the administration of the three funds. Likewise, Ecology applied the outcome-based enhancements mandated by HB 1785 to all three programs, even though the statute only applies to the Centennial Clean Water Fund.

General Statutory Provisions

Centennial Clean Water Fund

The Centennial Clean Water Fund is one of the programs funded by the Water Quality Account. The State Legislate authorized the Water Pollution Control Facilities Financing Act in 1986. The Water Quality Account funds a variety of programs to improve water quality. This account is financed primarily from tobacco tax revenues, and it is supplemented from the state General Fund and other revenue through legislative appropriation. The Department of Ecology uses an administrative rule, Chapter 173-95A WAC (*Uses and Limitations of the Centennial Clean Water Fund),* to help manage the program. The Centennial fund primarily provides grants to local governments and tribes for water pollution control facilities and water pollution control activities designed to prevent and control water pollution to our state's surface and ground water. The Centennial Fund also provides some low-interest loans for the same purposes.

Section 319 Nonpoint Source Fund

The Clean Water Act (CWA) Section 319 Nonpoint Source Program (Section 319) provides grant funding to local governments for the management of non-point source pollution and to improve and protect water quality. The United States Congress established the Section 319 program as part of the CWA Amendments of 1987. The Environmental Protection Agency (EPA) offers Section 319 funds to states subject to an annual appropriation by the United States

Congress. In recent years approximately $2 million has been available yearly to local and tribal agencies.

Ecology has no specific state law to guide the management of the Section 319 program. Much of the program is administered by federal regulations and guidelines, and Ecology also uses the provisions of the Centennial Rule (Chapter 173-95A WAC) to administer the grants.

Section 319 projects must also implement non-point source pollution control strategies that are specifically identified in Washington's *Water Quality Management Plan to Control Nonpoint Source Pollution, April 2000.*

Washington State Water Pollution Control Revolving Fund

The Washington State Water Pollution Control Revolving Fund (SRF) provides low interest loans to local governments for projects that improve and protect the State's water quality. The United States Congress established the SRF program under Title VI of the CWA Amendments of 1987. The amendments authorized the EPA to issue yearly capitalization grants to states to establish self-sustaining loan programs. In response, the State Legislature passed, Chapter 90.50A, RCW (*Water Pollution Control Facilities – Federal Capitalization Grants*) in 1988, which created Washington State's SRF program.

Funding for Washington's SRF program includes federal grants, a 20-percent state match comprising Water Quality Account funds, funds from loan principal and interest repayment, and interest earned by the State Treasurer's Office on investments of the loan principal and interest repayments. During the past several years Ecology has had approximately $80 million per year to loan to public bodies for projects including publicly owned wastewater treatment facilities, non-point source pollution control projects, and comprehensive estuary conservation and management programs. Ecology uses an administrative rule, Chapter 173-98 WAC (*Uses and Limitations of the Water Pollution Control Revolving Fund*), to further manage the program.

Eligible Recipients and Activities

Ecology acts in partnership with local governments, tribal governments, and other state agencies by providing financial and administrative support for their water quality efforts. Financial assistance is provided in the form of low-interest loans and grants to local and tribal governments for activities and facilities designed to prevent and control water pollution to our state's surface and ground water. Applications from groups recognized as not-for-profit organizations by the Internal Revenue Service are also accepted, because they are eligible to receive Section 319 grants.

Some examples of funded water pollution control activities include:

- Planning and installing facilities that conform to best management practices
- Watershed planning and other comprehensive surface and ground water planning
- Water quality monitoring

- Comprehensive non-point source planning
- Riparian revegetation
- Wellhead protection
- Lake restoration

Some examples of funded water pollution control facilities include comprehensive and site-specific facilities planning, design and construction of:

- Domestic wastewater and stormwater treatment plant upgrades or expansion of treatment
- Collection sewers and side sewer laterals
- Infiltration and inflow correction
- Combined sewer overflow abatement
- On-site septic system repair/replacement

Ecology has set a high priority on water-quality project proposals that will result in protecting public health and maintaining or restoring water standards to fully support designated beneficial uses of the water body. Depending on what is appropriate for the specific water body, designated beneficial uses include drinking water, endangered species habitat, shellfish habitat, fisheries habitat, and recreation.

Ecology uses the priority-setting criteria in Chapter 173-95A WAC to award funding to correct and prevent a range of environmental problems, based on the relative environmental and public health significance of the problem to be addressed by a project.

Application Period and Process Summary:

Ecology uses an integrated, seamless approach to delivering water quality funding from the Centennial Fund, Section 319 grants and the SRF. For example, even though there are distinctly different provisions for grants versus loans, Ecology uses the same application, the same proposal format, and the same set of evaluation criteria. The *Water Quality Program Financial Assistance Program Guidelines* cover all three programs.

Applications for grants and loans are accepted during an annual application period that begins in January and ends in late February or early March each year. Ecology's Water Quality Program conducts its competitive funding cycle on an integrated basis (one application and evaluation system) for all three major funding programs for water quality improvement and protection.

When local agencies and tribes apply for funding, it is not necessary to specify a funding source. The application is reviewed and prioritized on the merits of the proposed project. Once the projects have been reviewed and prioritized, Ecology staff place them on a priority-ordered offer list. Ecology will determine the most appropriate funding source for the project. In this way, Ecology helps ensure that available funds from different sources are applied to the highest priority projects.

Funds Appropriation History

The Centennial Fund appropriation for the 2001-03 Biennium is $50 million. However, legislative set-asides (mostly for extended payment grants to Seattle METRO and the city of Spokane) narrow the amount available for statewide competition to $24,653,000: half ($12,236,500) for FY2002 and the other half for the present FY 2003 funding cycle.

Appropriations for the past two and current biennia are shown in the table below.

Water Quality Grant and Loans Appropriation History

Biennium	Total Centennial Appropriation	Total Centennial Available After Set-Asides	SRF Loans	Section 319 Grants
1997-99	$70,000,000	$23,124,500	$101,459,441	$1,894,689
1999-01	$62,000,000	$23,400,000	$101,002,536	$4,701,100
2001-03	$50,000,000	$24,653,000	$202,412,802	$5,356,225

In the 2001-03 capital budget and the last several biennial budgets, the Legislature has directed Ecology to make a specific set-aside of the appropriation for small communities under 5,000, and to give priority consideration to projects located in 16 basins with critical or depressed salmonid stocks.

Additional Water Quality funding information is contained on Ecology's web site at:
http://www.ecy.wa.gov/programs/wq/funding/2003/index.html

This site, open to both potential grant applicants and the general public, includes:
- The current FY 2003 Guidelines (Volumes 1, 2, and 3)
- The application instructions
- The application and Water Quality/Enhanced Outcome Based Evaluation Criteria, and
- Other pertinent information and links

Program Implementation of HB 1785

Consultation with Interest Groups and Grant/Loan Recipients

Ecology's Water Quality Program uses on-going advisory groups and ad-hoc workshops to involve and use input from different groups of stakeholders, other natural resource agencies, Ecology staff and the general public. Ecology had formal meetings with stakeholder groups in the development and updating of its administrative rule on water quality funding, and also has consulted with these groups on how best to respond to the JLARC report and HB 1785. A very open and determined approach was taken to request and use the input of stakeholder groups and other agencies during the development and implementation of the new outcome-based evaluation criteria.

Water Quality Financial Assistance Council

Ecology's Water Quality Program has used its' Water Quality Financial Assistance Council, which meets every two months, for advice and guidance on how to enhance its present outcomes/performance based funding strategy. This Council was formed in early 2000 as an outgrowth of a previous advisory committee. It comprises statewide representatives from:

- Cities
- Counties
- Tribes
- Conservation districts,
- Special purpose districts (e.g. sewer districts),
- Environmental groups, and
- Other State of Washington and federal agencies that provide water quality-related funding to local and tribal agencies (the departments of Health and Community Trade, and Economic Development; and the Conservation Commission; the Puget Sound Water Quality Action Team; the Environmental Protection Agency; the Natural Resource Conservation Service; and USDA Rural Development.)

During JLARC review efforts, the council provided information and insight as staff of JLARC conducted its program audit. After HB 1785 became law, the Council provided Water Quality Program staff specific recommendations on behalf of many stakeholders as legislative direction and the outcome-based enhancements to the funding programs were first conceptualized, then refined and incorporated into the funding programs. Since passage of HB1785, the Council has met six times. Water Quality Program staff have briefed the Council at every meeting on its efforts to address the requirements of HB 1785. The Council, in turn, has provided recommendations to the staff that were incorporated into the strategy. The Council will continue to provide guidance on the strategy as it is evaluated and refined.

Water Quality Program Funding Workshops

Ecology's Water Quality Program held four public workshops in January 2002, at various locations statewide to explain the application process and general program requirements, as well as delineate the changes to the application resulting from the enhanced outcome/performance based priority system and monitoring strategy that was developed. More than 200 people attended these workshops.

All attendees seemed to accept the enhanced environmental outcome concept. Applicant feedback centered on clarifications that applicants needed to address these new questions in their project proposals. Responses on applications provided clearer feedback.

Watershed Funding Workshops

In February 2002, Ecology's Water Quality Program made presentations regarding the current FY 2003 application, the application process for financial assistance, and highlighted the "enhanced environmental outcome approach" at four watershed funding workshops sponsored by Ecology, EPA, and the Corps of Engineers. These four workshops, held in Mount Vernon, Sequim, Yakima, and Moses Lake, were attended by 120 grant and loan proposal writers (most of whom did not attend the January Water Quality Program Funding Workshops described above).

Representatives of state and federal agencies also attended these workshops, including the Public Works Board, the Department of Transportation, the Puget Sound Water Quality Action Team, Washington State University, the Department of Natural Resources, the Department of Fish and Wildlife, the U.S. Forest Service, the Bureau of Indian Affairs, and EPA.

Overall, stakeholders seemed to accept the proposed changes in funding criteria designed to focus more clearly on environmental outcomes. They did not offer counter-suggestions or criticisms to either the general approach or its details.

Consultation with Other Natural Resource Agencies

Three other stakeholder groups described below help with coordination among natural resource agencies and programs. These workgroups have shared information about legal issues, training, and evaluation contractors, as well as performance measurement systems, outcome measures and logic models. They have also helped Ecology examine other approaches to outcome-focused funding.

Infrastructure Assistance Coordinating Council (IACC)

The IACC is comprised of lead staff and managers from Ecology and other state and federal agencies responsible for operating state and federal grant and loan programs. (These are essentially the same agencies involved with the Water Quality Financial Assistance Council, but with an interagency coordination focus.) Ecology used the IACC to coordinate with stakeholders and other agencies working to develop and enhance outcome/performance based funding strategies and solicit input from stakeholders.

In November 2001, the IACC examined how state agencies are addressing JLARC recommendations and Legislative mandates. Ecology's Water Quality Program staff solicited feedback from the group on the proposed outcome/performance based priority system. The lead JLARC staff representative made a presentation, and other JLARC and OFM staff attended the discussion. All in attendance seemed receptive to Ecology's approach to focus on environmental outcomes. Other IACC meetings are to follow as agencies implement their respective strategies.

Municipal Finance Workshops

The Water Quality Program held two meetings for Ecology staff on Oct. 16 and 18, 2001, to discuss municipal finance in general, and Ecology's ongoing efforts and plans to incorporate JLARC recommendations into its funding criteria. Questions focused on how performance measures would be developed and tracked. This forum served as an introduction to all staff of the enhanced outcome-based strategy being developed.

SB 5637 Performance Measures Workgroup

Ecology staff has had several meetings with representatives working on SB 5637 Watershed Health Monitoring and Assessment, including the Interagency Committee for Outdoor Recreation and the Governor's Salmon Recovery Office (IAC/GSRO), to coordinate and discuss performance measures for watershed health and salmon recovery. Both the Water Quality Program at Ecology and members of the SB 5637 committees are working together to ensure the measures developed under both HB 1785 and SB 5637 are consistent with one another. Measures of water quality and watershed health have been developed over the course of many decades, and although there are occasional scientific disagreements, measures of environmental health for salmon, water and watersheds are fairly well defined and commonly understood. This mutual understanding should facilitate performance measure and indicator development to serve HB 1785 and SB 5637 with integrated measures.

Outcome-Focused Performance Measures

Historical Perspective

Ecology's Water Quality Program has historically used water quality and public health criteria to score the relative merits of project proposals for funding. The expected environmental performance of the project is the underlying basis for deciding which projects to fund. The rating and ranking process evaluates the environmental significance of the project as proposed, and the ability of the applicant to accomplish the project as described in the proposal. For example, applicants for financial assistance during the FY 2002 funding cycle (pre- HB 1785) were required to explain how the water quality problem was impairing water quality (e.g. spawning habitat impairments, shellfish restrictions, drinking water restrictions or trends, etc). Applicants then were required to explain how the problem would be solved and how the success measures would be applied. Points were assigned based on the specific impairment(s) and likelihood that the applicant's efforts would solve the problem.

Water quality parameters that are critical to the evaluation process include but are not limited to: dissolved oxygen and related organic matter in the water, suspended sediments, temperature, ammonia and other nitrogen forms, pH, phosphorus, and fecal coliform bacteria. Although specific points are not assigned to each parameter, evaluators (all of whom have water quality expertise) are able to rank the relative importance of these different parameters, depending on the beneficial uses of the water body. For example, they would score projects addressing persistent low dissolved oxygen in salmon habitat higher than infrequent pH violations in a warm-water river reach that historically supported only warm-water fish.

In order to meet the requirements of HB 1785, an even greater emphasis was placed on achieving environmental outcomes (referred to as "environmental results" in the application and program guidelines) in the FY 2003 Water Quality Financial Assistance Application. Ecology now believes that project applicants must show that they have long-term goals that they and the Department can eventually expect to achieve. Ecology's ultimate (longer-term) environmental goal is clean water in Washington that can support all uses the public expects i.e. swimming, good fish habitat, drinking water – depending on the specific water body. All local and tribal agency projects must support this ultimate outcome.

Ecology's Water Quality Program now scores applications based on:

- Environmental Results, defined as "tangible environmental changes for the better, to be achieved or directly addressed by the project proposed." Specifically applicants are asked to provide clear documentation (data) that:
    1. Water quality is restored or protected -- i.e. Water Quality Standards that are met through violations or serious threats (e.g., 303 (d) listing or data showing probable listing) to surface or ground water quality standards;
    2. Resolution of a Severe Public Health Hazard or of a Public Health Emergency; or
    3. Regulatory compliance achieved to address a compliance order, consent decree, etc., or action taken to avert a probable threat to compliance.

- Project Results are defined in the application as quantitative results realistically anticipated during the course of the project that will directly lead to the Environmental Results. For example:
    1. Meeting water quality standards along a 10-mile targeted segment (where Environmental Results are to restore beneficial uses along the entire 50-mile stream).
    2. Establishing and maintaining a healthy self-sustaining riparian area by planting and maintaining 15,000 trees to provide shade to the stream and exclude all cattle from the corridor along 12 miles of stream.
- Identify success (performance) measures to track progress towards attaining targets, and results.
- What is the applicant's continued monitoring commitment (e.g. follow up monitoring after State financial assistance has ended)?

The enhanced emphasis on *environmental outcomes* together with all other related criteria will help Ecology ensure that money invested through loans and grants leads to the greatest possible environmental benefit. Applicants will have to measure and report on the relationship between project activities and measurable improvements in the environment. The details of Ecology's water quality grant and loan program is available at:
http://www.ecy.wa.gov/programs/wq/funding/2003/index.html

First Year Response by Applicants

The true test of the developing approach was how well the newly enhanced outcome-based criteria were understood and addressed by applicants. From a representative sample of applications, most local and tribal agencies that applied for financial assistance in the recently completed FY 2003 application cycle understood and addressed these new questions with appropriate responses. Follow up negotiations will be needed with most successful applicants to ensure the depth of their commitment to track project and environmental outcomes. Mechanisms may need to be instituted to facilitate an effective monitoring and tracking of each project funded.

Using Performance Measures in Final Performance Evaluation

Currently, at the end of a project, the financial assistance recipient provides a final report to Ecology. From this report, Ecology's Water Quality Program staff prepares a Final Performance Evaluation (FPE) to ensure the project was completed in accordance with the scope of work, the contractual obligations were met and the final payments were made. The FPE also outlines project expectations and accomplishments, but in its present form it cannot be used to track longer-term project and environmental results, which are often, achieved well after the project is closed out.

Facilities grants usually result in on-going monitoring. Staff of wastewater treatment facilities are required to submit monthly discharge monitoring reports (DMR). These reports show how effluent standards are being met and identify overall plant performance. DMRs are reviewed by Ecology and are the basis for enforcement actions when discharge permit requirements are violated.

By contrast, activities grants, such as stream bank restoration, do not generally receive project-specific monitoring. Once an activities project is completed, and the final report is prepared, there are no systematic mechanisms in place to track outcomes and ensure the integrity of improvements after project completion.

Overall Assessment of the First Year

Overall, based on this year's applications, the clear majority of applicants understood the enhanced outcome-based concept. Instructions and training provided earlier this year clearly achieved the desired results. Staff will continue to work with the applicants offered financial assistance to make the environmental and project results measurable and clear, and they will be included in the formal financial assistance agreements, so all projects will have measurable documented projected results. It is anticipated that application questions will be refined to clarify some of the results-based criteria prior to the FY 2004 application cycle.

Recommendations for Improved Program Outcome Monitoring

Monitoring and tracking of intermediate and long-term water quality outcomes is substantially lacking.

Monitoring currently consists of:

- Trends and results achieved during the project period.
- Follow-up monitoring studies conducted by the recipient with or without additional financial assistance. Project sponsors are often reluctant to apply for additional financial assistance, because they believe new water quality improvement projects would compete more favorably.
- Ambient water quality monitoring conducted primarily by Ecology to assess the overall status of state waters. This monitoring is not targeted toward areas where financial assistance has been received. Furthermore, ambient monitoring has been reduced in recent years because of limited resources.

Ecology recommends adoption of a monitoring program that is closely aligned with the work being undertaken by the Monitoring Oversight Committee created under SB 5637. Draft objectives and measures have already been developed under the Comprehensive Monitoring Strategy and are an excellent template for those grants programs that address water quality, salmon and watershed health.

For instance, for habitat and watershed protection, a draft output measure is "acquisition of riparian areas," with the corresponding target and intermediate outcome of "increase in protected buffer width," and "increase in protected buffer miles." These measures, if adopted as final measures by the Monitoring Oversight Committee, would be posted in each grant program's materials for use by prospective grantees.

Since the salmon scorecard was introduced, Ecology's Shorelands and Water Quality programs each track indicators of watershed and salmon health. Ecology is working to fold into this performance measure all environmental outcome data collected by grantees, as well as ambient monitoring data identified in the parallel SB 5637 process, and do so on a quarterly basis. For those measures falling outside this system, Ecology may adopt a scaled-down database to track outcome data from grantees.

The monitoring, design, and implementation approach adopted by the Monitoring Oversight Committee will be used by the grant programs and their grantees as the approach is developed. Because Ecology staff is involved in both HB 1785 and SB 5637, cross- coordination between programs has worked well.

Ecology's Environmental Information Management System

Ecology uses its existing Environmental Information Management System (EIM) as a repository for water quality data. This new system (several years in the making) already contains more than 250 projects, 6000 stations, and one million records for field data such as surface water quality and sediments monitoring data (measurements, samples, station location, etc.). The system also has a geographic information system (GIS) component so the user can identify the geographic location of the station where the sample was collected. EIM is not used to analyze the data but

rather to store the data in an accessible and downloadable format to be later analyzed by scientists, public interest groups, etc. using statistical analysis or environmental modeling tools.

Currently, Ecology lacks the resources to track down and enter the data collected by grantees, or to analyze ongoing post–project outcomes. Ecology would like to do a better job of systematically linking projects financial information with water quality and project management information. Ecology would also like to develop an ongoing reporting mechanism with sufficient resources to ensure the long-term effectiveness of completed projects. Where a "self evaluation" approach must be used, adequate resources and authority must be provided to local and tribal agencies to conduct the program, as well as to Ecology in order to monitor, support the system and analyze the results. To begin working with a new level of outcome-focused performance measurement data, Ecology will need to work with grantees, OFM, and JLARC to plan how best to pay for these efforts.

Assuming Ecology would administer the environmental data associated with our mandates, additional funding would be required to enhance the Environmental Information Management System including:

- Modifications to the database to accommodate new measures and to complete data entry for grantee-collected data;
- Development of a data warehouse for storing the data for fast search and retrieval capabilities;
- Integrating the EIM database with the agency's Contracts & Grants Payable System to provide a linkage between grants and the data collected and associated with those grants and;
- Staff to develop effectiveness monitoring guidance; to approve quality assurance plans; to review monitoring findings for accuracy; and to conduct cumulative outcome analyses (e.g. effectiveness of multiple projects within a watershed).

Ecology will continue to discuss these issues with stakeholders, OFM, other state agencies, and JLARC.

Barriers to fully Implementing of HB 1785

No significant legal barriers to implementing HB 1785 have been identified. The only hurdle encountered has been the time it takes to change the administrative rule that sets points by category for the grant proposal rating process.

Stakeholder barriers likewise do not appear serious. Stakeholders seem genuinely willing to improve understanding and communication to foster better environmental outcomes.

There are significant questions about how to pay for developing and administering the future outcome-monitoring database. Currently, neither processes nor resources are adequate to methodically track short- and long-term environmental and project results. For a variety of reasons, environmental results may take many years to achieve. Some examples include:

- Newly planted trees may provide some limited soil stabilization in a few years but trees may take a decade or more to be large enough to effectively slow bank erosion during normal and above-average stream flows and to shade the stream to provide temperature reduction.
- The build up of contaminants (nitrogen, fecal coliform, etc) over time may take years to leach though the soil, so there may be a substantial lag between completion of a project and elimination of sources of contamination in the receiving water body.
- Water quality improvements may require completion of several different projects. Even relatively large wastewater treatment plant upgrades do not guarantee immediate improvements, because there may be other sources of pollution upstream in the watershed.

Furthermore, after projects are completed, there may be no resources to complete follow up monitoring.

In addition, tracking post-project outcomes beyond what is now being accomplished is limited by our reliance on applicants to design appropriate monitoring. Specifically, "effectiveness monitoring" i.e. the direct results of the project such as decrease in water temperature, are currently included in all financial assistance agreements issued by Ecology's Water Quality Program. However, so far there are a very limited number of project proposals for "validation monitoring," which measures the ultimate outcome of the project.

For existing projects and those to be offered funding under the enhanced outcome based strategy for the FY 2003 funding cycle, the current framework and limited resources make it difficult for Ecology to consistently track project outcomes. While facility projects are regulated by a permit and have legally mandated discharge and/or water quality reporting requirements, activity projects do not have mandatory reporting requirements and it may take a longer period of time to measure the effectiveness of the project.

Ecology does not have an effective way to ensure monitoring reporting after the grant or loan payments have stopped. In order for this kind of system to be maintained, the system must meet the environmental management purposes of project applicants, as well as Ecology.

Coordinated Prevention Grants

The primary purpose of the Coordinated Prevention Grant Program (CPG) is to prevent or minimize environmental contamination by providing grants to local governments to prepare and implement hazardous waste plans and programs, and solid waste plans and programs under the Solid Waste Management Statute (RCW 70.95) and the Model Toxics Control Act (MTCA).

General Statutory Provisions

The Model Toxics Control Act enabling legislation is RCW 70.105D.070. MTCA gives first priority for Local Toxics Control Account (LTCA) funding to remedial action grants for cleanup of hazardous waste sites, and second priority to solid waste plans and programs (solid waste includes hazardous wastes from citizens and small businesses). The Coordinated Prevention Grant program was created to:

- Prevent and clean up environmental contamination;
- Promote regional solutions and intergovernmental cooperation;
- Encourage local responsibility for solid and hazardous waste management; and
- Improve efficiency, consistency, reliability, and accountability of grant administration.

The rules for the program are in Chapter 173-312 WAC. The CPG Guidelines may be found at http://www.ecy.wa.gov/biblio/0107037.html

Eligible Recipients and Activities

All MTCA grant funds are dedicated to local governments, which are given responsibility for solid waste in Washington (RCW 70.95). All counties in the state, as well as the cities of Seattle and Everett, have adopted solid waste plans and are eligible for implementation grants. Primary eligible activities include commercial and residential waste reduction and recycling programs, household hazardous waste collection and disposal, related education projects, and planning updates.

Solid waste enforcement grants are available to jurisdictional health departments and districts to protect public health through permitting and inspecting solid waste facilities, and through enforcing waste handling requirements and illegal dumping ordinances.

All grant recipients are required to coordinate their applications with other entities within their planning jurisdiction. Counties coordinate with cities and towns prior to submitting an application. Any government entity is able to receive pass-through funds through its county.

Funds Appropriation History

CPG grants are provided through appropriations of the Local Toxics Control Account. Appropriation levels for the current and last two biennia are shown in the table below.

Coordination Prevention Grants Appropriation History

Biennium	Solid & Hazardous Waste	Solid Waste Enforcement	Total
1997-99	$13,537,342	$3,400,000	$16,937,342
1999-01	$13,344,495	$3,500,000	$16,844,495
2001-03	$14,000,159	$3,500,000	$17,500,159

Funds are distributed as specified in WAC 173-312. Solid Waste Enforcement (SWE) grants are offered for up to $100,000 or $150,000 (for multi-jurisdiction health departments). All other CPG programs are allocated using a base amount (currently $80,000) and a per capita amount (currently $1.63) for each county. The most populous county, King, received $3,202,502 to split amongst the county and various municipal governments. The least populous county, Garfield, was eligible to receive $92,298 in CPG funds.

Program Implementation of HB 1785

Consultation with Interest Groups and Grant/Loan Recipients

The program held four workshops throughout the state to train potential applicants on Outcome Funding, a method that values investing in projects and recipients, and fostering innovation and learning. *Outcome Funding (*by Williams, Webb, and Phillips) features Target Plans, which define the final, observable project outcome (target) and what measurable incremental changes occur along the way. Target Plans logically link grant recipient actions to customer behavior changes using target numbers and a timeline. The completion dates in the target plan allow for timely grant- officer contact to ensure project progress and success.

The initial reaction to the news that the CPG program would be changing, however, was not enthusiastic, focusing more on concerns about competing for funds than on the potential benefits of focusing on outcomes. County public works departments and county health officials have grown accustomed to reliable support for their operational activities, some of which were initiated at the behest of the state. Many smaller counties are anxious about competing for funding against larger jurisdictions that have larger staffs, resource bases, and revenues for matching the grants. Some counties believe demographics, such as smaller population bases and economies of scale, greater distances to markets for recyclables, and cheaper land with lower landfill tip fees, will make it impossible to be as cost-effective as their urban peers.

However, as Ecology began working with local governments on pilot grants to explore how to implement JLARC recommendations, Ecology found that almost all local governments are able to treat this change as an opportunity. Discussions about focusing on results and sharing information have been very positive. Ecology provided training on Outcome Funding as one

method of implementing JLARC recommendations, and that training is helping grant recipients realize that the focus of JLARC recommendation is not necessarily having a competitive, but an effective grant program.

Ecology's commitment to ensuring that any CPG revisions will be made only in partnership with stakeholders has also helped lower tensions. This has helped clarify that, while Ecology and CPG stakeholders must develop a program that is investment focused, there is some flexibility about how that is accomplished.

Consultation with Other Natural Resource Agencies

The essential task of the CPG program at the local level is the coordination of efforts in the solid and hazardous waste fields between all the local governments within a county jurisdiction. The planning process and projects that connect various levels of local government assures coordinated, complementary efforts. Since no other natural resource agency focuses on waste prevention, CPG has not made a special effort to improve coordination at the state level.

Outcome-Focused Performance Measures Developed for CPG

The CPG program has recorded data on its funded projects, including local hazardous waste collection, reuse, recycling and disposal; educational products; solid waste inspections and enforcement activities; and equipment purchases. The program has not, however, integrated outcome-based performance measures into grant applications, project management, or outcome analysis. The Solid Waste and Financial Assistance Program is committed to incorporating a more performance-based process into CPG. As the program develops the 2004-2005 cycle, Ecology is working with stakeholders and other state programs to develop performance measures for the CPG program. One challenge will be covering the broad range of activities concisely, through as few measures as possible. The CPG advisory group will help determine program performance measures and how they are used.

Ecology tested performance-measure target areas in a $2 million, competitive pilot grant program in the spring of 2002. The pilot grants focus on sustainability, projects that are more effective because they prevent waste rather than manage it. Ecology clearly defined areas of performance for applicants (reduce waste, prevent pollution, reuse materials, and conserve resources and energy), but did not define specific measures.

Ecology is concerned that a rigid approach to using performance-measures could limit their ability to attract effective new projects. Ecology is interested in projects that focus on various waste streams (paper, electronics, organics), waste components (lead, mercury, pesticide residue) and methods (prevention, efficiency, reuse, recycling). A narrow measure such as tons of paper recycled could miss valuable reduction options in other media, while a broad measure like a jurisdiction’s overall recycling rate could mask valuable projects that would have significant results in a subset of the waste stream. CPG has many inter-related goals, so choosing quality performance measures will be a difficult but essential task.

Modifying Grant/Loan Applications

The pilot applications focused on outcomes, reversing the past practice of asking what is accomplished by recipient activities, and asking instead what actions are needed to accomplish the desired results. The application forms ask questions that provide applicants the opportunity to demonstrate how well they know their customers (those whose behavior they wish to change). The target plan asks applicants to explicitly describe how and why customers change their behavior, which allows reviewers to assess how likely success will be. This is another significant step toward an outcome-based approach, moving beyond the idea that people will change their behavior based on information alone. Ecology reviewed pilot applications based upon the degree to which they addressed target performance areas relative to project costs, and chose those that were the best investments. Rather than using pre-determined scores or formulae, Ecology grant officers relied upon project knowledge to choose the best investments.

A second major change in the application has been the shift to a two-phased process. An initial proposal was limited to a two-page description. This was intended to help level the playing field for large and small applicants by limiting the initial required paperwork. The most promising proposals were given assistance in preparing the more detailed applications, upon which funding decisions were based. Overall, the change moved us away from a typical application and more towards a request for proposals. While the application process did not work flawlessly (the application was somewhat repetitive, and some applicants did not take advantage of available trainings or grant officer assistance), Ecology is satisfied with the projects funded.

Recommendations for a Monitoring Program

Coordinated Prevention Grants support Ecology's mission to prevent pollution and support sustainable communities. The CPG program does not collect data on environmental outcomes. In the solid waste arena, local governments and the state have created a waste collection system that aims to concentrate wastes in landfills designed, constructed and monitored to minimize environmental impacts to air and water. Coordinated Prevention Grants, however, do not fund the collection and disposal infrastructure.

As the Solid Waste and Financial Assistance Program works with stakeholders on the Beyond Waste project, the program is exploring how CPG can help support sustainable communities and prevent pollution. The goal of the Beyond Waste effort is to significantly reduce the use of wastes and toxic substances and to shift toward a system where resources are used more efficiently, and excess materials are reused as resources. Developing measures that accomplish these goals requires broader perspective. Traditional waste-generation and waste-disposal rates describe the solid waste system but miss other, important impacts. For example, reducing waste prevents greenhouse gas emissions by lessening the impacts associated with mineral and raw material extraction, manufacturing and transportation of products. Releases of toxins can also be reduced in each of these economic stages. Furthermore, most toxics leave factories not as pollution but as products, suggesting that existing pollution control regulations will not suffice to curtail the environmental and social risks associated with toxins. As research shows, more and more health effects in children are related to toxics exposure (cancer, impaired immune systems,

attention deficit disorder, lower IQs and increased tendency towards violent behavior). These environmental health risks in turn impact social issues.

Successful CPG projects reduce waste and toxics usage, helping maintain clean air, land and water and helping protect human health. Those wastes that are created are also managed through CPG projects – diverting household hazardous waste and funding local regulatory oversight. While the CPG program in itself cannot drive outcomes at this broad level, there are several outcome measures that would help describe the problems CPG projects address. Such measures of human health might include: contaminants in breast milk, sperm counts and fertility rates, body burden of Persistent Bioaccumulative Toxins, or rates of childhood cancer. Measures that address the environmental degradation that leads to human health risks include: greenhouse gas emissions, pesticide sales, use of toxins in products and toxins released as emissions.

Once the Beyond Waste project is completed in the fall of 2004, the CPG program will reexamine its grant program and performance measures to incorporate the reports recommendations. This will also involve efforts of integrating performance measures into Ecology's Environmental Information Management System.

Barriers from CPG'S Perspective

There are significant and varied stakeholder-related barriers to full implementation of the requirements of HB 1785. An additional barrier may also exist to using performance-based contracting.

Stakeholder Related Barriers

The greatest barrier is stakeholder concern about competition. If grants were to become wholly competitive, funding for many local governments would become much more uncertain. Local governments currently work well together – an asset that might be eroded by competition and questions about the fairness or wisdom of award decisions. Ecology agrees with stakeholders that stability for local programs is important, and that revisions to the grant program should focus on effectiveness and results, and not solely on increasing competition.

Many small county programs use CPG monies to sustain their local waste prevention programs. There is concern among stakeholders that Ecology could become more focused on innovation than established projects. During the pilot grant cycle, Ecology found that supporting innovation often means offering large grant awards to rural areas to increase service levels or achieve economies of scale. While Ecology wants to invest in innovations to reach new levels of service or try new methodologies, the agency believes that innovation is important only to the extent that it leads to improved learning and environmental outcomes.

Funding is a major concern for many local governments. In many counties, tipping fees do not cover the cost of the local solid waste system, and grant money is essential to maintain ongoing programs. Ecology does not think it would be wise to change CPGs funding structure in its

entirety all at once, and will work with stakeholders to meet JLARC's requirements in a manner that also meets the interests of local government.

Uncertainly about the new grant selection methodology is a barrier, but one that should diminish over time. Once Ecology has worked with stakeholders to establish the 2004-05 methodology, Ecology will provide trainings as needed and offer technical assistance as appropriate.

Another concern is the balance between state and local priorities. Local plans and the evolving Beyond Waste state plan may or may not align neatly. Ecology would like to focus more on long-term sustainability issues to reduce waste, but local governments still face the immediate issues of what to do with the waste that exists now. Ecology intends to keep working with stakeholders to develop an improved grant framework for moving toward some of the long-term outcomes, while supporting existing operations when necessary, to keep current conditions from deteriorating.

Barrier to using performance-based contracts

A further barrier may exist should Ecology try to apply the performance expectations of contracts to a collaborative-grant program. To focus purely on performance issues, as in performance-based contracting, would be difficult for two reasons. First, local governments and Ecology act as partners on solid waste issues. Ecology does not have the same business relations with local governments that it would have with contractors. Secondly, Ecology's grants must reimburse grantees for work done. Grants pay for good faith efforts, while contracts can focus more narrowly on results. Positive working relationships, however, create a better environment in which to learn. There is, however, a danger of creating two parallel accounting systems: one for grant expenditures and one for environmental outcomes.

The Outcome Funding model assumes a performance contracting mentality, but differs from grant programs in several ways. The model does not include a match requirement, nor does it include ongoing working relations from one grant cycle to the next. If MTCA did not include match requirements, it would be more appropriate to offer performance-based contracts. The match, however, represents the partnership between state and local governments, a collaborative effort towards shared goals. While Ecology cannot buy results *per se through grant funds*, it can create a program that continuously increases its own effectiveness through learning and good faith efforts.

Public Participation Grant Program

The Public Participation Grant (PPG) program has two major purposes: (1) to facilitate public participation in the investigation and remediation of hazardous waste sites, or to provide information to individuals who may be affected by a release or threatened release of a hazardous substance, and (2) to facilitate public participation in the implementation of the state's solid and hazardous waste management priorities. The priorities in descending order for solid waste are pollution prevention, waste reduction, and recycling. For hazardous waste, priorities are pollution prevention, hazardous waste reduction (alternatives and practices), waste reduction (volume) and recycling.

General Statutory Provisions

Chapter 70.105D.070 RCW provides that one-percent of the revenues of the Local Toxics Control Account and of the State Toxics Control Account be set-aside for Public Participation Grants. Chapter 173-321 WAC sets forth the regulations for the program. This is a competitive grant program, meaning that Ecology does not fund all the projects received. The grants reimburse 100 percent of eligible costs of the project.

The PPG Guidelines for 2001-03 are found at http://www.ecy.wa.gov/pubs/0007034.pdf. The rules, Chapter 173-321 WAC, are found at http://www.ecy.wa.gov/biblio/wac173321.html

Eligible Recipients and Activities

The PPG program defines eligible recipients as non-profit public-interest organizations or other established groups of three or more unrelated persons. Profit-seeking enterprises and government agencies at a federal, state or local level are ineligible, as are Indian tribes. Organizations must be located within Washington State or have a branch office in Washington where the project will take place.

Hazardous Substance Release Site (HSRS) grants can pay for contracts with non-government technical consultants to review the progress of cleanups conducted by Ecology, the EPA or by public or private liable parties. Such consultants review complex technical documents and translate their meaning to grant recipients and to the general public. This enables the public to understand and offer informed opinions about alternative hazardous waste cleanup methods, to ensure that better decisions are made, and to ensure that the public has greater confidence in such decisions.

Waste Management Priorities Implementation (WMPI) grants pay for community education about waste reduction, recycling, and other forms of pollution prevention. Educational efforts play a crucial role in changing the attitudes and beliefs of a person, business or community, and should usually precede other efforts intended to result in behavioral change.

Funds Appropriation History

The PPG program is administered by one FTE plus part time administrative and management staff. The sum total of grants awarded statewide average less than $500,000 annually.
The table below shows the present and past two biennia appropriations for the PPG Program.

Public Participation Grants Appropriation History

Biennium	STCA 1%	LTCA 1%	Total
1997-99	$ 550,360	$ 435,000	$ 985,360
1999-01	$ 342,000	$ 424,790	$ 766,790
2001-03	$ 380,000	$ 620,000	$1,000,000

The Model Toxics Control Act requires that one percent of the revenues collected from a tax on hazardous substances be set aside for the PPG program. The funds for the PPG program come from the Local Toxics Control Account (LTCA) and the State Toxics Control Account (STCA).

At least 50 percent of the funding is guaranteed to HSRS grants if there are sufficient applications (and there always have been sufficient applications). However, the ranking process funds only the most competitive proposals, so applying for funding in this category does not guarantee obtaining a grant.

Program Implementation of HB 1785

Consultation with Interest Groups and Grant/Loan Recipients

The PPG program administrator has not consulted with affected interest groups about major changes to its grant program since 1993, when the grant guidelines and application process became more outcome-based. The grant application process, grant management, and grant project evaluation all incorporate fundamental outcome funding principles. Staff plans to send a focus sheet to stakeholders regarding the JLARC recommendations, and will schedule PPG project design meetings during the summer of 2002.

Consultation with Other Natural Resource Agencies

Because the PPG grants are narrowly focused on hazardous substance clean-ups and solid waste reduction, Ecology has not consulted widely with other natural resource agencies. Most of the PPG grants do not address watershed health or salmon measures but to the extent they do, the PPG program will coordinate with Ecology's internal SB 5637 lead and IAC, as appropriate.

Outcome-Focused Performance Measures

Several internal reviews of the grant program have refined the PPG program's outcome funding orientation over the years. As a result, the program is already very much in line with the "Key Investment Practices" listed in the JLARC report on environmental grant programs.

The program employs advertisement and outreach mechanisms that broadly disseminate information about program funding and availability; technical assistance is made available to assist applicants in developing high-quality applications; and the use of the Bennett's Hierarchy walks the applicant through an analytical review of their proposed project.

The program's prioritization and selection process is documented, clear, objective and open; the prioritization and selection criteria evaluate the environmental quality benefits that the proposed projects are to produce; the prioritization and selection criteria evaluate the likelihood that the benefits will be produced; the expected costs relative to the benefits will be evaluated; the prioritization and selection criteria evaluate projects' readiness to proceed; and the program uses a ranking (scoring) system to award funding.

Each grant includes an implementation and expenditure plans and schedules and these are enforced.

Grant project output and outcome data is collected from the grant recipients; output/outcome measures, related to the program's investments, are available; advisory groups are consulted regarding program practices and performance.

The program coordinates its project investments at the funding stage with other related entities at the appropriate geographic scale.

Program Management

The PPG program was originally designed using outcome-funding principles. Applications incorporate "Bennett's Hierarchy. " Each application must start with a goal and specify the "End Results—the environmental improvement the project will bring to fruition." Working backward from this goal, the applicant must specify the behavior changes; the knowledge, skills and attitude changes; and the reactions, participants, activities, and inputs necessary to make such environmental improvement possible.

Performance assessment of PPG

Four years ago, the program considered the question of performance measures. Two performance measures proposed for the *Hazardous Substance Release Site (HSRS)* grants were:

- Percentage of sites at which grant recipients and site managers consider the public participation effective.
- Percentage of PPG grants awarded under HSRS that resulted in remediation changes that the site manager considers improvements.

Waste Management Priorities Implementation (WMPI) grants

One outcome measure was proposed:

- Percentage of grant project audiences exhibiting improved waste management behavior or pollution prevention practices.

Determining grant eligibility

Priority consideration is given to: applicants requesting a hazardous substance release grant; new applicants; and applicants who demonstrate the ability to provide accurate technical information on complex waste management issues. Each application is reviewed against these general and specific criteria. The measures developed under HB 1785 will support the present eligibility criteria for awarding these grants.

Modifying Grant/Loan Applications

The PPG grant application form has not yet been modified. The PPG Guidelines and WAC 173-321 set forth criteria used in evaluating grant applications. However, the existing process substantially complies with HB 1785, since PPG already uses an outcome-focused approach.

These existing performance measures will be revisited, but Ecology does not anticipate any major revision. Guidelines will be written in the summer of 2002 for the biennium that will begin July 1, 2003. The program does not plan an overhaul or major departure from its current approach because it already largely complies with the JLARC's investment practices and has incorporated outcome-funding strategies. However, the program will incorporate performance measures, and given adequate resources, the remaining key investment practices will be addressed.

PPG Recommendation for a Monitoring Program

The Public Participation Grant program is small, but would like to contribute to a coordinated monitoring effort. To date, no database has been created to log the activities and outcomes of the funded grant projects. The lack of a database makes it difficult for the program to meet all the requirements of the JLARC report on Investing in the Environment. The PPG program would like to be able to take advantage of the analytical capacity of a mature monitoring system to help target future priorities. The PPG program will continue to look at opportunities for collecting monitoring data and incorporating this information into Ecology's Environmental Information Management System.

Barriers for Full PPG Implementation of HB 1785

Legal barriers

A statutory change will probably be necessary to enable each account (LTCA and STCA) to change the percentage directed to the PPG program to fund planning and implementation of outcome-focused performance measurement grant projects. A statute change would also be required to raise the ceiling on each grant, to allow additional funded work on outcome reporting.

Funding barriers

The barriers to fully implementing HB 1785 for PPG are mainly the limited amount of funding available to each grant recipient, which is set by statute at $60,000 or less.

The limited resources devoted to PPG program administration (a little over 1 FTE) necessarily limits Ecology's ability to develop a system for standardizing and tracking PPG performance measures. Ecology staff would need time and resources to develop the system including training grant recipients in the measurement methods. Public involvement staff would have to design and deliver the stakeholder outreach campaign. An additional PPG administrator would probably be required to deliver this new level of grant project oversight. The PPG program is working with Ecology management on an agency-wide approach to paying for a coordinated outcome-based grant data management system.

Stakeholder and Technical Barriers

Ecology would like to make a computer-based performance measurement system sufficiently simple and user-friendly for use by community groups with a range of computer skills. Each PPG project is designed to meet the needs of one or more identified audiences. These projects can be adapted for use by other groups, but information systems need sufficient detail and flexibility to convey in a useful way the success factors in each project.

Remedial Action Grants and Loans

The remedial action grants and loans program provides financial assistance to local governments to clean up hazardous waste sites for which they are liable. Local governments may also access grants and loans to facilitate the cleanup of area- wide ground water contamination in their jurisdiction, even though the local government may not be a potentially liable person. Ecology is also authorized by the Legislature to provide grants or loans to local governments for three other purposes: (1) to assist in the assessment and cleanup of sites with methamphetamine production; (2) to provide new drinking water infrastructure when original systems are contaminated by hazardous waste; or (3) to remove hazardous substances from derelict or abandoned vessels.

General Statutory Provisions

Remedial action grants and loans are authorized under chapter 70.105D RCW, known as the Model Toxics Control Act (MTCA). MTCA funds hazardous waste cleanup through a tax on the wholesale value of hazardous substances. The tax is imposed on the first in-state possessor of hazardous substances at the rate of 0.7 percent, or $7 per $1,000 value. The Local Toxics Control Account receives 0.37 percent of the revenue, which in the current biennium amounts to $45 million. Sixty percent of the appropriation from the local toxics control account is dedicated to remedial action grants. On average, about $25 million of the available amount is awarded to local governments by the Toxics Cleanup Program for remedial action grants.

Ecology's Solid Waste & Financial Assistance Program administers the grant and loan program on behalf of the Toxics Cleanup Program. TCP sets policy on cleanup decisions and approves which remedial action projects receive financial assistance in the form of grants or loans.

The Remedial Action Grant Guidelines may be found at http://www.ecy.wa.gov/biblio/99505.html. The enabling legislation is RCW 70.105D.100. The rules for the program can be found in chapter 173-322, WAC.

Eligible Recipients and Activities

Eligible recipients are limited to local governments. These include towns, cities, counties, health departments and districts, school districts, fire districts, public utility districts, port districts—or any other local entity with the power to levy taxes. It does not include any units of state government, nor does it include Indian tribes.

The determination of whether a site is indeed a hazardous waste site is performed either by the Environmental Protection Agency (EPA) under the Comprehensive Environmental Recovery, Response, Compensation, and Liability Act of 1980 (CERCLA) or by Ecology's Toxics Cleanup Program (TCP) under the Act. Sites that are suspected or confirmed as contaminated are placed on a list. A further refinement of sites on the suspected or confirmed contaminated sites lists occurs when EPA or Ecology undertakes a "site hazard assessment."

Sites where a site-hazard assessment has been conducted by Ecology are then provided with a relative ranking of one to five--according to hazardous risk caused by exposure to human health and the environment. Ranked sites become a program priority for Ecology's oversight of cleanup, with the worst site (rank 1), having the highest priority for remedial action. Sites that are ranked by Ecology and placed on the hazardous sites list are generally subject to Ecology's oversight and approval of the cleanup under a settlement agreement or administrative order. Local government publicly owned sites on the hazardous sites list and under a decree or order receive first consideration for the award of financial assistance.

Eligible activities under a remedial action grant or loan include any action or expenditure consistent with the purposes of the Act to identify, eliminate, or minimize any threat or potential threat posed by hazardous substances to human health or the environment. Reimbursement for expenditures include any investigative and monitoring activities with respect to any release or threatened release of a hazardous substance and any health assessments or health effects studies conducted in order to determine the risk or potential risk to human health. Steps taken during the cleanup of an average hazardous waste site include site discovery, initial investigation, hazard ranking, site hazard assessment, remedial investigation, feasibility study, selection of cleanup action, and site cleanup.

To receive financial assistance for remedial actions, a local government must be ready to proceed, including providing as much as a fifty-percent match for the project, and having the staffing necessary to sustain what typically turns out to be a long-term undertaking.

Funds Appropriation History

The following table reflects the legislative appropriation of funds from the Local Toxics Control Account for the current and prior two biennia.

Remedial Action Grants Appropriation History

Biennium	Local Toxics Account Appropriation
1997-99	$ 26,226,400
1999-01	$ 25,232,526
2001-03	$ 45,981,937

Since the inception of the remedial action grants program in 1989, Ecology has awarded almost $165 million for 332 grants to local governments. The local government match is 50 percent for most awards of financial assistance. In this way, Ecology has leveraged the $165 million in grants to local governments toward an estimated cleanup cost of $304 million. Ecology awards approximately $25 million a biennia to local governments for remedial action at publicly owned contaminated sites.

The first ten years of the remedial action grants program was spent addressing hazardous substances at municipal landfills. Today, local governments are facing sediment cleanups and area-wide cleanups on publicly owned properties where industrial practices resulted in releases

of heavy metals, petroleum, and wood-treating chemicals. Some local governments inherit contaminated sites because the liable private parties are bankrupt or the site has been abandoned.

In 1993, based on the effect of revenue shortfalls and fluctuations in the State Toxics Control Account, TCP established the policy that grants from the Local Toxics Control Account be provided to local health departments and districts to conduct site-hazard assessments. This shifted the site-assessment work from Ecology personnel to local governments. For site-hazard assessment grants, Ecology provides local governments with one hundred percent financial assistance.

Program Implementation of HB 1785

Consultation and Coordination with Interest Groups and Grant/Loan Recipients

HB 1785 amends the Model Toxics Control Act, chapter 70.105D RCW, to explicitly require that environmental benefits be included in grant applications and that Ecology use environmental benefits to prioritize and select remedial actions for funding. This change in the statute is not anticipated to change how Ecology prioritizes and selects grant recipients to receive financial assistance. Since adoption of chapter 70.105D RCW in 1989, compliance with the cleanup requirements (i.e., environmental benefit) has been a criterion for prioritizing and selecting remedial actions for department grants awards. However, Ecology is critically evaluating all options, including proposing an administrative rule change as the appropriate solution to the recent legislative change to the Model Toxics Control Act.

Ecology will consult with stakeholders in any proposed changes that will be made in the remedial action grant application and guidance documents. In the event of changes in the grant guidance and application, a public outreach and communication plan will be developed so that members of the public will have an adequate opportunity to participate. If it is deemed that a rule change is necessary to implement the proposed grant application changes, then--in accordance with the Regulatory Reform Act--the department intends to apply a negotiated rule-making process whereby those affected by the regulations will also be engaged in the rule's development prior to rule adoption.

Because the Remedial Action Grant program primarily funds local government projects, Ecology does not anticipate an extensive consultation process with state agencies.

Outcome-Focused Performance Measures

Over many biennia, Ecology has collected and tracked performance measures for remedial action grants in the Toxic Control Programs quarterly reports to the Office of Financial Management. Performance measures for remedial actions include: (1) number of known contaminated sites with cleanup actions completed; (2) number of sites with cleanup action in progress; (3) number of sites that are awaiting cleanup; (4) sediment acreage evaluated for source control and cleanup; (5) sediment acreage remediated for source control and cleanup; (6) number of reported releases

from underground storage tanks over time; and (7) number of leaking underground storage sites that are cleaned up or have received a no further action determination.

Clean-up actions occur after hazardous waste sites have been: (1) ranked; (2) characterized through a site hazard assessment; and (3) investigated to determine the magnitude and extent of contamination. Clean up levels are established for each environmental medium- ground water, surface water, soil and air- at the site. Different clean up levels are established for carcinogens and non-carcinogens, to ensure that the risks do not exceed the allowable levels of risk to humans. The cleanup level also must be below a concentration that could adversely impact plants and animals (unless it can be determined that such impacts are not a concern at the site).

Because the substances typically found at hazardous waste sites are well defined, Ecology can use tables that assign clean up levels that are protective of human health for 25 of 30 of the most commonly found substances found in soil and groundwater.

All cleanup actions are required, under WAC 173-340-360, to meet threshold requirements including protection of human health and the environment. This means that cleanup actions must comply with the cleanup standards set in the Model Toxics Control Act as well as all applicable state and federal laws; and must provide for compliance monitoring. When selecting from cleanup actions alternatives the chosen cleanup action must use permanent solutions to the maximum extent practicable; must provide for a reasonable restoration time frame; and must consider public concerns.

A cleanup action plan is tailored to each site and is designed to remove, remediate, treat or otherwise dispose of the polluting substances, thereby reducing the human health or environmental threat to acceptable levels. These plans are detailed documents that set forth the manner in which the clean up will proceed, sets forth the extent to which contaminants are removed or treated, and as such defines the environmental results achieved. (WAC chapter 173-340-380 and 360, as well as Ecology Focus Sheets 94-129 and 94-130 provide further detail.) Cleanup action plans for sites under an order or decree must be submitted to the department for review and approval.

At this time, Ecology is contemplating measuring the following additional environmental results: (1) designated beneficial uses restored or protected; (2) public health emergency eliminated; and (3) regulatory compliance achieved to address an order or decree.

Modifying Grant/Loan Applications

The application for a remedial action grant has not been modified since Ecology believes that the current application meets the requirements of HB 1785. The existing application provides decision-makers and the public with information that a release or threatened release of a hazardous substance may exist, and that there is a potential threat to human health and the environment. An applicant's action to identify, eliminate, or minimize any threat or potential threat posed by hazardous substances to human health or the environment, by its very nature, meets the requirements of HB 1785. Confirmation and achievement of the cleanup level is the outcome-based performance measure.

Recommendations for a Monitoring Program

When the Solid Waste and Financial Assistance Program closes out a project, the financial assistance recipient provides a final report. From these reports a "Final Performance Evaluation" results. The evaluation identifies initial and final costs for the project and financial assistance provided to the recipient. The report also indicates project expectations and accomplishments relative to compliance with the Model Toxics Control Act.

The cleanup regulation (WAC 173-340) specifies that compliance monitoring must be conducted at each site in order to confirm the long-term effectiveness of the cleanup action once cleanup standards have been attained. There are three types of compliance monitoring: protection, performance, and conformational monitoring. Compliance monitoring is used to: confirm that human health and the environment are adequately protected (protection monitoring); confirm that the cleanup action has attained cleanup standards and, if appropriate, remediation levels or other substantive requirements of the law (performance monitoring); and confirm the long-term effectiveness of the cleanup action once cleanup standards and, if applicable remediation levels or other performance standards have been attained (conformational monitoring).

Site data are maintained in the database managed by the Toxics Cleanup Program. This database contains information on confirmed and suspected contaminated sites that await cleanup, are undergoing a cleanup action, or have a cleanup action completed. This database contains information on medium (air, soil, water); contaminant of concern or hazardous substances at the site; concentration levels; geographic location of the contaminated property; and the action level for decision. Quarterly monitoring results are submitted by the potentially liable person to Ecology's project manager for review. These documents are placed in Ecology's site file. When cleanup levels are achieved and confirmed, Ecology provides the potentially liable person with a "no further action" determination. The final determination is entered in Ecology's database. This database is designed so that the data can be easily transferred into the agency's Environmental Information Management System for sharing of information across programs.

Ecology would like to electronically compile data on the concentration levels of contaminants; the cleanup and action levels for each hazardous substance at a site; the chosen method of remedial action (for instance, treatment, disposal, recycle); and the remedial technology that was used to cleanup the hazardous substances. Many of these data fields were built into the Toxics Cleanup Program's site information system; however, the completion of these data fields were optional, and so, resources were instead committed to a number of other required fields of information. Ecology would like to draw upon additional site cleanup data to illustrate where cleanup levels are being met and where restricted land use is required to protect human health and the environment.

Barriers to fully Implement HB 1785

The Remedial Action Grant program appears to be in substantial compliance with the requirements of HB 1785. Some modifications are assumed to be necessary, however, to establish rule changes and operate a more active outcome indicators information management effort. The obstacles identified below are believed to be surmountable.

On a temporary basis, this program can incorporate most HB 1785 driven changes through new guidelines. However, an administrative rule change should be accomplished the next time the rule has to be opened for another purpose. One-half to one FTE will probably be required for two years for this purpose. Currently, there is only one person administering Remedial Action Grants. Options for paying for increased staff time and other costs are being explored.

The department will need to consider extending the JLARC reporting timeframes to measure impacts to the environment beyond the short two-year funding cycle. Complex remedial actions take several years to comply with cleanup requirements, including the outcomes of reducing contamination to safe levels.